

**TAX INCREMENT
FINANCING REPORT**

May 1, 2003

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Tax Increment Financing, Investment & Finance Division Office of the State Auditor State of Minnesota

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I. GENERAL INFORMATION

A. INTRODUCTION

In the 1995 Omnibus Tax Act, the Legislature transferred authority for legal compliance oversight of all tax increment financing (TIF) districts in the state to the Office of the State Auditor (OSA). Local governments were required to file reports with the OSA for more than 2,100 TIF districts for the year ended December 31, 2001. The OSA is required to provide an annual summary of its findings of noncompliance with the Minnesota Tax Increment Financing Act and the responses to those findings by the governing bodies of the relevant municipalities.¹ This report is submitted to the chairs of the legislative committees with jurisdiction over tax increment financing.

B. BACKGROUND

1. What Is Tax Increment Financing?

Tax increment financing is a statutory tool to promote economic development, redevelopment, and housing in areas where it would not otherwise occur. A TIF authority, typically a city, an entity created by a city, or an entity created by a county, “captures” the revenues generated by the increase in net tax capacity resulting from new development within a designated geographic area called a TIF district. The TIF authority uses the tax increments to finance some or all of the TIF-eligible costs of the new development that generated the increase in net tax capacity. Frequently, the TIF authority will use some of the tax increment to finance costs outside the TIF district.

TIF is not a property tax abatement program. The owner of the property in the TIF district continues to pay the same amount of property taxes that would have otherwise been payable absent the existence of the TIF district. Instead of being paid to the various taxing jurisdictions for their general use, however, the portion of these property taxes generated by the new development is redirected and used to pay some of the development costs that the owner, developer, or local government otherwise would have paid.² Examples of TIF-eligible costs that might be paid include land and building acquisition, demolition of structurally substandard buildings, removal of hazardous substances, site preparation, installation of utilities, and road improvements. The costs that may be paid from tax increment depend on the type of project created, the type of TIF district created, and the year in which the TIF district was created.

¹ Minn. Stat. § 469.1771, subd. 1(c) (2002).

² School district taxes and related increases in state education aid payments as a result of TIF districts capturing net tax capacity are a less significant issue after enactment of the 2001 omnibus tax law, which eliminated the general education levy and replaced it, in part, with a state property tax that is not captured by TIF districts. *See* Laws 1 Sp. 2001, ch. 5, art. 15, sec. 18.

In some TIF districts, bonds are sold by the municipality or development authority at the outset of the project so that funds are available for front-end costs such as land acquisition. The bonds are then fully or partially paid with tax increment revenues from the TIF district. An alternative to up-front financing (known as pay-as-you-go financing) also may be used. Under this type of arrangement, the development costs are initially paid from cash on hand or other sources. The person who paid them is then reimbursed if, and when, tax increment is generated by the TIF district.³ Generally, in a pay-as-you-go TIF district, the developer accepts the risk of failed development. If the tax base does not increase, and tax increments are not generated as anticipated, the developer does not get paid.⁴

In yet another scenario, some TIF authorities borrow from their own or their municipalities' funds to finance up-front development costs, with the intention of repaying these funds with tax increment generated by the project in which the initial investment is made. In 2001, the Legislature established a procedure that must be followed if this type of activity is to be undertaken.⁵

2. Overview of Tax Increment Financing Act

The Minnesota Tax Increment Financing Act⁶ (TIF Act) governs the creation and administration of TIF districts. The TIF Act has been amended frequently since its creation in 1979. A TIF district is usually governed by the laws in effect in the year in which the district was created.

The TIF Act divides TIF districts into several types:

- C Pre-1979 districts
- C Redevelopment districts
- C Renovation and renewal districts
- C Soils condition districts

³ The TIF authority may use tax increment to reimburse only those costs that are TIF-eligible and that the property owner or developer actually has incurred, plus reasonable interest. The TIF authority must obtain from the developer and retain in its files documentation of the costs being reimbursed.

⁴ Even in situations where bonds are issued or the TIF authority receives an advance of funds, TIF authorities frequently structure the financing arrangements to shift the risk of insufficient tax increment from the TIF authority to the private entity that is benefitting from the use of tax increment financing.

⁵ Minn. Stat. § 469.178, subd. 7 (2002).

⁶ Initially, the TIF Act was codified at Minn. Stat. §§ 273.71 through 273.78. It has since been recodified and now consists of Minn. Stat. §§ 469.174 through 469.1799.

- C Housing districts
- C Economic development districts
- C Hazardous substance subdistricts

Each type of TIF district has different requirements for the creation of a district, different maximum duration limitations, and different restrictions on the use of tax increment from the district. In addition, uncodified legislation has authorized the creation of a variety of special-purpose TIF districts that may be subject to specific criteria set forth in the enabling legislation.

3. Who Uses Tax Increment Financing?

The TIF Act authorizes TIF authorities to create TIF districts. TIF authorities include cities, housing and redevelopment authorities, port authorities, economic development authorities, municipal redevelopment agencies, and rural development financing authorities.

4. Creation of TIF Districts

The TIF authority takes the first step in creating a TIF district by adopting a TIF plan for the district. The TIF plan provides information about the project being funded by tax increment from the TIF district and authorizes the use of tax increment from the district to pay TIF-eligible project costs.⁷ To create a new TIF district, the TIF authority must obtain approval of the TIF plan for the district from the governing body of the municipality in which the TIF district is located after the municipality has published a notice and held a public hearing.⁸ For example, if a city's port authority proposes to create a TIF district in the city, the city council must approve the TIF plan for the district. If a county's housing and redevelopment authority proposes to create a TIF district in a township in the county, the county board must approve the TIF plan.⁹

Before a TIF district is created, the TIF authority must provide a copy of the proposed TIF plan and certain information about the proposed TIF district to the county auditor and the clerk of the school board, who in turn provide copies of these documents to the members of the county board of commissioners and

⁷ Minn. Stat. § 469.175, subd. 1 (2002).

⁸ Minn. Stat. § 469.175, subd. 3 (2002).

⁹ If a county's housing and redevelopment authority proposes to create a TIF district in a city, it is not clear whether the municipality that must approve the TIF plan is the city, the county, or both. *See* Minn. Stat. § 469.174, subd. 6 (2002).

the school board.¹⁰ The county board and school board may comment on the proposed district, but cannot prevent the creation of the district.¹¹

5. Statistics on Use of Tax Increment Financing

A total of 440 TIF authorities had active TIF districts for which they were required to report information to the OSA for the year ended December 31, 2001. These TIF authorities were required to file reports regarding 2,166 TIF districts. According to the information municipalities filed with the OSA, these 2,166 TIF districts consisted of the following types of TIF districts:¹²

Pre-1979 districts	88
Economic development districts	677
Housing districts	397
Redevelopment districts	943
Renewal and renovation districts	20
Soils condition districts	37
Districts authorized by uncodified laws	<u>4</u>
Total	<u>2,166</u>

Over the years, the number of TIF districts created annually has fluctuated. Table 1 on the following page lists the number of each type of TIF district grouped by the year of each TIF district's certification request date (CRD), starting in 1991.¹³ This information was reported by TIF authorities for the year ended December 31, 2001.

¹⁰ Minn. Stat. § 469.175, subd. 2 (2002).

¹¹ A county board may prevent creation of a TIF district in those limited situations in which the county is the municipality that must approve the TIF plan.

¹² This is unaudited information. The OSA has determined through TIF legal compliance audits and investigations that a number of municipalities incorrectly reported the types of their TIF districts.

¹³ Table 1 does not include TIF districts reported to be pre-1979 districts, mined underground space districts, districts authorized by uncodified laws, districts for which no type was reported, and districts for which no certification request date was reported. TIF districts with certification request dates before 1991 also were excluded. Many economic development districts created before 1991 were no longer required to report for the year ended December 31, 2001. Therefore, including TIF districts with certification request dates before 1991 would have created the false impression that few economic development districts were created during those earlier years.

TABLE 1—Number of Active TIF Districts Created by Type and Year of Certification Request

CRD Year	Economic Development	Housing	Redevelopment	Renewal & Renovation	Soils Condition	Total
1991	20	8	16	0	1	45
1992	30	12	28	3	7	80
1993	47	13	44	3	7	114
1994	47	22	42	1	4	116
1995	63	42	50	3	7	166
1996	58	30	69	1	2	161
1997	80	33	61	4	0	179
1998	65	29	64	2	1	161
1999	53	36	49	2	2	142
2000	52	38	61	0	0	151
2001	<u>41</u>	<u>31</u>	<u>35</u>	<u>0</u>	<u>0</u>	<u>108</u>
Total	<u>556</u>	<u>294</u>	<u>519</u>	<u>19</u>	<u>31</u>	<u>1,423</u>

Tables 2 and 3 summarize unaudited financial information reported to the OSA for the year ended December 31, 2001.¹⁴

TABLE 2—Revenues and Other Financing Sources (OFSs)

	Prior Years	Calendar 2001	Total	% of Total
Tax increment revenue	\$3,074,980,264	\$325,448,944	\$3,400,429,208	38%
Interest on invested funds	458,438,011	26,852,067	485,290,078	5%
Bond proceeds	2,893,075,727	105,928,483	2,999,004,210	33%
Loan proceeds	222,094,599	2,527,273	224,621,872	2%
Sale/lease proceeds	240,254,596	20,924,247	261,178,843	3%
Grants	198,716,355	4,524,252	203,240,607	2%
Transfers in	938,011,094	98,622,425	1,036,633,519	11%

¹⁴ These tables do not include data regarding a small number of TIF districts for which the OSA had not received 2001 TIF reports as of the date of this report.

	Prior Years	Calendar 2001	Total	% of Total
All other sources of funds	438,103,173	18,247,789	456,350,962	6%
Total of reported revenues and OFSs	<u>\$8,463,673,819</u>	<u>\$603,075,480</u>	<u>\$9,066,749,299</u>	<u>100%</u>

TABLE 3—Expenditures and Other Financing Uses (OFUs)

	Prior Years	Calendar 2001	Total	% of Total
Land/building acquisition	\$1,259,924,824	\$68,354,188	\$1,328,279,012	16%
Site improvement/ preparation costs	643,955,220	60,582,914	704,538,134	9%
Installation of public utilities	345,637,807	18,772,301	364,410,108	4%
Parking facilities (publicly owned)	168,450,798	1,502,669	169,953,467	2%
Streets and sidewalks	245,247,879	16,107,884	261,355,763	3%
Social, recreational, conference facilities (publicly owned)	275,088,166	14,641,602	289,729,768	3%
Bond principal payments	1,200,869,027	122,977,978	1,323,847,005	16%
Bond interest payments	877,400,385	50,724,271	928,124,656	11%
Loan principal payments	157,521,230	16,157,183	173,678,413	2%
Loan/note interest payments	83,010,878	18,893,787	101,904,665	1%
Administrative expenses	280,423,692	16,679,296	297,102,988	4%
Transfers out	1,487,623,953	115,269,673	1,602,893,626	19%
All other uses of funds	778,699,391	54,922,605	833,621,996	10%
Total of reported expenditures and OFUs	<u>\$7,803,853,250</u>	<u>\$575,586,351</u>	<u>\$8,379,439,601</u>	<u>100%</u>

C. STATE AUDITOR'S ROLE IN TIF

The Legislature has given the OSA responsibility for determining whether local governments are in compliance with the TIF Act.¹⁵ In January 1996, the OSA created a TIF Division to perform these TIF enforcement and data-collection functions. The operations of the TIF Division are funded exclusively from revenue derived by deducting a percentage of all tax increment that county auditors or treasurers distribute to TIF authorities and municipalities.¹⁶ The county treasurers deduct the revenue before distributing the tax increment to the local governments, and then pay the deducted revenue to the state treasurer. The amount of revenue to fund the TIF Division varies with the number of TIF districts and the amount of tax increment they produce.

The OSA reviews all TIF reports it receives each year for substantial completeness and returns reports that do not meet this standard. Exhibit 1 to this report shows the statutory reporting requirements for TIF districts and details the statistics on TIF reporting for the year ended December 31, 2001.

In addition to reviewing all TIF reports for completeness, the TIF Division staff reviews the contents of many of the TIF reports each year for reporting accuracy and potential legal compliance issues. During the course of these in-depth reviews, the TIF Division staff may find situations where a TIF authority has received tax increment after the TIF district was required to be decertified or has made unauthorized expenditures of tax increment. From January 1, 1996, to date, the review of reports by the TIF Division staff and subsequent contact with reporting local government units, plus the legal compliance audits and investigations performed by the TIF Division staff, have resulted in over \$11 million being paid or returned to county auditors voluntarily or as the result of settlement agreements. This amount was redistributed to the cities, towns, counties, and school districts in which the relevant TIF districts were located.¹⁷ In addition, the OSA's TIF enforcement activities may have prompted internal examinations that resulted in additional voluntary payments to county auditors.

¹⁵ Minn. Stat. § 469.1771, subd. 1(b) (2002).

¹⁶ Effective for taxes payable in 2002 and thereafter, the commissioner of revenue must calculate a new TIF enforcement deduction rate for the appropriation that finances the OSA's TIF-oversight function. The new rate must be equal to the previous rate (0.25 percent) times the amount that the statewide TIF levy for taxes payable in 2002 would have been but for the class rate compression and elimination of the general education levy in Laws 1 Sp. 2001, ch. 5, divided by the actual statewide TIF levy for taxes payable in 2002. Minn. Stat. § 469.177, subd. 11 (2002). The Department of Revenue has calculated the deduction rate to be 0.36 percent.

¹⁷ See Minn. Stat. §§ 469.176, subd. 2, and 469.1771, subd. 2 and 3 (2002). Some of the school districts that received these redistributions had their state aid decreased by the amount received from the redistributions, which resulted in a savings to the state's general fund.

The TIF Division also has worked actively in the area of tax increment financing education on a statewide level. In June 2002, the OSA provided two workshops to assist local governments with completing the TIF reports. This is the fourth year that the OSA has conducted workshops on TIF reporting and it anticipates presenting additional ones in 2003.

II. VIOLATIONS OF TIF ACT

Section II of this report discusses details of the various TIF legal compliance audits and investigations completed in the past year. Complete copies of the initial and final notices of noncompliance and the municipalities' responses are provided at the end of this report.

If the OSA finds that a TIF authority is not in compliance with the TIF Act, the OSA must send a notice of noncompliance to the governing body of the municipality that approved the TIF district in which the violation arose.¹⁸ The notice of noncompliance provides the basis upon which the OSA relied in making its finding and describes the possible consequences of the noncompliance.

The governing body must respond in writing to the OSA within 60 days after receiving the notice of noncompliance. In its response, the municipality must state whether it accepts, in whole or in part, the OSA's findings and indicate the basis for any disagreement with the findings.¹⁹ The OSA must provide information regarding unresolved findings of noncompliance to the appropriate county attorney, who may bring an action to enforce the TIF Act.²⁰

If the county attorney does not commence an action against the TIF authority within one year after receiving a referral of a TIF notice of noncompliance from the OSA and the matter is not otherwise resolved to the OSA's satisfaction, the OSA must refer the notice of noncompliance to the attorney general.²¹ If the attorney general finds that the TIF authority or municipality violated a provision of the TIF Act and the violation was substantial, the attorney general must commence an action in the tax court to suspend the

¹⁸ Minn. Stat. § 469.1771, subd. 1(c) (2002).

¹⁹ Minn. Stat. § 469.1771, subd. 1(c) (2002).

²⁰ Minn. Stat. § 469.1771, subd. 1(b) (2002). The county attorney may seek a court order requiring the TIF authority to pay an amount to the county auditor under Minn. Stat. § 469.1771, subd. 2 or 3. A court may abate all or part of the amount that must be paid under Minn. Stat. § 469.1771, subd. 2 or 3 if the action that violated the TIF Act was taken in good faith and making the payment would work an undue hardship on the municipality. Minn. Stat. § 469.1771, subd. 4(b) (2002).

²¹ Minn. Stat. § 469.1771, subd. 1(d) (2002).

authority of the TIF authority and municipality to use TIF.²² Before commencing the action in the tax court, however, the attorney general must attempt to resolve the dispute using appropriate alternative dispute resolution procedures.²³ If the attorney general commences an action and the tax court finds that the TIF authority or municipality violated the TIF Act and the violation was substantial, the tax court must suspend the authority of the TIF authority and municipality to use TIF for a period of up to five years.²⁴ The enforcement mechanism involving the attorney general applies only to final notices of noncompliance issued by the OSA after December 31, 1999.²⁵

In addition, the OSA must provide a summary of the responses it receives from the municipalities, and copies of the responses themselves, to the chairs of the legislative committees with jurisdiction over tax increment financing.²⁶ Appendices A through G of this report contain copies of notices of noncompliance and the municipalities' responses regarding the cities of Centerville, Cold Springs, Norwood Young America, Plato, Vadnais Heights, and the Coon Rapids Economic Development Authority (EDA) and the White Bear Lake Housing and Redevelopment Authority (HRA). This section provides a summary of the findings contained in these notices of noncompliance.

A. CITY OF CENTERVILLE

On October 18, 2001, the OSA sent the city of Centerville an initial notice of noncompliance. The city's response did not fully resolve all issues described in that notice and the matter was referred to the Anoka County attorney on March 12, 2002. On March 10, 2003, the Anoka County attorney served a summons and complaint on the city.

The OSA's final notice related to the following issues.

1. Failure to Follow Procedures for Creating TIF District

The OSA initially found that it could not verify that the city council made the required findings regarding approval of the TIF plan for TIF District 1-2, because the OSA audit staff was not provided a complete copy of the resolution approving the TIF plan.

The city responded that it could not find the portion of the resolution containing this information, but even if it did not make the required findings, the Legislature did not intend that a technical deficiency in the procedures

²² Minn. Stat. § 469.1771, subd. 2b(a) (2002).

²³ Minn. Stat. § 469.1771, subd. 2b(b) (2002).

²⁴ Minn. Stat. § 469.1771, subd. 2b(c) (2002).

²⁵ Laws 1999, art. 10, sec. 5, 6, and 29.

²⁶ Minn. Stat. § 469.1771, subd. 1(c) (2002).

for establishing a TIF district could be cited years after approval to invalidate the creation of the TIF district.

In its final notice, the OSA indicated that the validity of the city's position is a determination appropriate for the county attorney and the courts.

2. Failure to Meet the “But For” Test or Lack of Reasons and Supporting Facts

The OSA initially found that the city council did not set forth in writing the reasons and supporting facts for its finding that TIF District 1-3 met the “but for” test, as required by the TIF Act.²⁷

The city's response stated that section Y of the TIF plan for TIF District 1-3 contained the city's reasons and supporting facts for its “but for” finding.

In its final notice, the OSA stated that section Y of the TIF plan for TIF District 1-3 refers to local and public improvements that would not be made without TIF assistance but does not contain the reasons or supporting facts to explain why the city council found that private development would not occur without TIF assistance.

3. Costs Not Eligible for Payment With Tax Increment

The OSA initially found that the city improperly spent \$62,189 of tax increment from TIF Districts 1-1, 1-2, and 1-3, on a payment to the lender that financed construction of the new city hall and attached fire station.²⁸

The city responded that \$44,595 of the \$62,189 payment was made with tax increment, and the city forwarded a copy of a check to the Anoka County Auditor for that amount. The city stated that the remaining \$17,594 of the \$62,189 payment was made with non-tax increment, and cited the federal district court case of *Nielsen v. City of Roseville* to support its position.

In its final notice, the OSA reiterated that determining whether Minnesota courts will adopt the reasoning of the *Nielsen* case and how that reasoning will be applied are issues that are best addressed by the county attorney and the courts.

4. Costs Not Authorized in the TIF Plan

The OSA initially found that the city improperly spent \$63,129 of tax increment from TIF Districts 1-1, 1-2, and 1-3, because the tax increment was transferred into the city's general fund and the city could not verify how the tax increment was spent.²⁹ City staff informed the OSA that the \$63,129 transfer was made for the purchase of land for expansion of the city's park, but the original TIF plans for TIF Districts 1-1, 1-2, and 1-3

²⁷ Minn. Stat. § 469.175, subd. 3(2) (1988).

²⁸ Minn. Stat. § 469.176, subd. 4g (1988).

²⁹ Minn. Stat. § 469.176, subd. 4 (Supp. 1987).

did not designate any property that the city intended to acquire, as required by the TIF Act.³⁰ The OSA also found that the city improperly spent an additional \$120,064 of tax increment from TIF Districts 1-1, 1-2, and 1-3 on land acquisition, because the city used the tax increment to acquire an additional parcel of land that the TIF plans did not designate as property the city intended to acquire.

The city acknowledged that the TIF plans for the aforementioned TIF districts did not explicitly designate the land acquired as property the city intended to acquire, but stated that the TIF plans indicated that the city would acquire land necessary to meet development objectives as described in the TIF plans and therefore sufficiently described the property in question.

In its final notice, the OSA found that the city could not substantiate that the \$63,129 transfer of tax increment to the city's general fund was spent on land acquisition. Furthermore, even if the city spent the \$63,129 of tax increment on parkland acquisition, the city violated the TIF Act because the TIF plans did not designate by parcel identification number, street address, legal description, or other means that would allow a reader of the TIF plans to know that the city intended to acquire the property. The OSA applied the same reasoning in finding that the city improperly spent an additional \$120,064 of tax increment from TIF Districts 1-1, 1-2, and 1-3 on land acquisition.

5. Expenditures in Excess of Total Estimated Tax Increment Expenditures

The OSA initially found that the city improperly spent \$297,850.13 of tax increment from TIF District 1-1, \$349,695.98 of tax increment from TIF District 1-2, and \$290,267.80 of tax increment from TIF District 1-3, because the city spent these amounts of tax increment in excess of the total estimated tax increment expenditures authorized by the TIF plan for each TIF district.³¹ Any increase in the total estimated tax increment expenditures requires the TIF authority to obtain municipal approval of a TIF-plan modification after notice and a public hearing.³²

The city responded that the TIF plans contain only estimates of revenues and expenditures and estimates are subject to revisions, and that the plans authorized the use of tax increment to pay the costs at issue.

In its final notice, the OSA found that the relevant TIF plans stated that tax increments would be used in conjunction with other revenues to pay total project costs, and that project costs would be financed through a combination of the annual collection of tax increments, special assessments levied and to be levied, and other revenues. In addition, the TIF plan for TIF District 1-2 did not contain an estimate of the amount of bonded indebtedness to be incurred, even though it was required to do so.³³ Therefore, the TIF plan neither explicitly

³⁰ Minn. Stat. § 469.175, subd. 1(2) (Supp. 1987).

³¹ Minn. Stat. § 469.176, subd. 4 (Supp. 1987).

³² Minn. Stat. § 469.175, subd. 4 (Supp. 1987).

³³ Minn. Stat. § 469.175, subd. 1(5)(ii) (1988).

or implicitly contained an estimate of the cost of the project that could be used to determine total estimated tax increment expenditures.

6. Failure to Segregate Tax Increment

The OSA initially found that the city failed to segregate tax increment received from TIF Districts 1! 1, 1! 2, and 1! 3 in special accounts on the city's official books and records, as required by the TIF Act.³⁴

The city responded that according to the court in the *Nielsen v. City of Roseville* case, the City of Centerville did not violate the TIF Act by failing to segregate tax increment from the city's TIF districts.

In its final notice, the OSA reiterated its finding that the city failed to segregate tax increment from three of the city's TIF districts, as required by the TIF Act. Generally Accepted Accounting Principles require the city's accounting system to be structured to produce documentation that demonstrates which costs were paid and which were not paid with each district's tax increment in order to be able to demonstrate compliance with the TIF Act.³⁵ The OSA reiterated that determining whether Minnesota courts will adopt the reasoning of the *Nielsen* case and how that reasoning will be applied are issues that are best addressed by the county attorney and the courts.

B. CITY OF COLD SPRING

On December 2, 2002, the OSA sent the city of Cold Spring an initial notice of noncompliance. This matter has been resolved as described below.

1. Tax Increment Received After the Maximum Duration Limit

The OSA initially found that the city improperly received \$113,397 of tax increment from TIF District 2 after the statutory maximum duration limit for this TIF district.³⁶

The city responded that it agreed with the OSA. The city returned \$113,397 to the Stearns County auditor, and the payment resolved this finding.³⁷

³⁴ Minn. Stat. § 469.177, subd. 5 (Supp. 1987).

³⁵ See Governmental Accounting Standards Board's Codification of Accounting and Financial Reporting Standards as of June 30, 2000, §§ 1100.101 and 1200.106.

³⁶ Minn. Stat. § 469.176, subd. 1(e) (1988); see also Laws 1993, ch. 375, art. 14, sec. 10 and 24.

³⁷ The city initially returned \$209,219 to the Stearns County Auditor. The remaining \$95,822 (\$209,219! \$113,397) amount is discussed in the excess increment part of the violation section.

2. Excess Tax Increment

The OSA initially found that the city improperly received \$240,656³⁸ of excess tax increment from TIF District 2.³⁹

The city responded that it agreed with the OSA and paid back the excess increment minus eligible administrative expenses to the Stearns County auditor. On December 20, 2002, the OSA contacted the Stearns County auditor and was notified that the county auditor/treasurer had received \$209,219 from the City of Cold Spring.

In its final notice, the OSA found that the city paid the county auditor/treasurer \$209,219 and used the remaining \$31,437 of cash to pay administrative expenses, which is not an eligible use of excess increment.

The city responded that it agreed with the OSA and paid the \$31,437 excess increment amount to the Stearns County auditor. The city's payment resolved this finding.

C. CITY OF COON RAPIDS

On November 26, 2001, the OSA sent the city of Coon Rapids an initial notice of noncompliance. The city's response did not fully resolve all issues described in that notice and the matter was referred to the Anoka County attorney on April 15, 2002. On February 27, 2003, the Anoka County attorney served a summons and complaint on the city.

The OSA's final notice related to the following issues.

1. Failure to Follow Procedures for Creating a TIF District

The OSA initially found that the Coon Rapids Economic Development Authority (EDA) did not have a signed contract that covered at least 50% of the acreage of TIF District 1-14 and provided recourse if the development was not completed, both of which were required because the district was established as a soils conditions district.⁴⁰

³⁸ The \$240,656 amount includes the \$113,397 amount of tax increment received after the maximum duration limit, which was discussed earlier.

³⁹ Minn. Stat. § 469.176, subd. 2 (1988).

⁴⁰ Minn. Stat. § 469.174, subd. 19(d) (1988). This statute provided that the EDA was not entitled to include any parcels in TIF District 1-14 if the EDA failed to comply with the statute's requirements.

The city's response did not include any documentation to show that the EDA had concluded the agreement required for TIF District 1-14.

In its final notice, the OSA reiterated its finding that the EDA did not conclude an agreement or agreements required by applicable state law. The EDA received \$135,540.92 of tax increment from TIF District 1-14 from January 1, 1991, through December 31, 1992.

2. Incomplete Public Hearing Notice

The OSA initially found that the city failed to include a map of TIF District 1-18 in the published notice of public hearing on approval of the district's TIF plan.⁴¹ The OSA also found that the city failed to publish a notice of the public hearing on approval of the September 7, 1993, November 15, 1994, June 18, 1996, March 17, 1998, and April 20, 1999, TIF plan modifications related to TIF Districts 1-18, 1-19, and 1-20.

The city's response stated that the published notice for TIF District 18 referred to a map which apparently was not published. The city's response did include copies of the published notices for the TIF-plan modifications, except for the published notice of the public hearing on the approval of the June 18, 1996, TIF-plan modification which apparently cannot be located.

In its final notice, the OSA reiterated its finding that the city failed to include a map of TIF District 1-18 in the appropriate published notice, and that the city failed to publish a notice of the public hearing on approval of the June 18, 1996, TIF plan modification.

3. Failure to Meet the "But For" Test or Lack of Reasons and Supporting Facts

The OSA initially found that the city council did not set forth in writing the reasons and supporting facts for its finding that TIF District 2-3 met the "but for" test, and that the city did not include in the TIF plan an identification and description of the studies and analysis used to make the finding.

The city's response referenced Exhibit A to resolution 90-30 as citing the reasons and facts supporting the establishment of TIF District 2-3. The city's response also included a consultant's report that showed project costs and funding options.

In its final notice, the OSA found that Exhibit A restated the "but for" test, but did not provide any reasons or supporting facts to support the establishment of TIF District 2-3. Furthermore, the consultant's report was not prepared by or adopted by the city council, nor was it included in the TIF plan for TIF District 2-3.

⁴¹ Minn. Stat. § 469.175, subd. 3 (1990).

D. CITY OF NORWOOD YOUNG AMERICA⁴²

On June 18, 2002, the OSA sent the city of Norwood Young America an initial notice of noncompliance. The city's response did not fully resolve all issues described in that notice and the matter was referred to the Carver County attorney on October 24, 2002.

The OSA's final notice related to the following issues.

1. Failure to Follow Procedures for Creating a TIF District

The OSA initially found that the city did not provide members of the county board and school board with the city's required estimate of the fiscal and economic implications of TIF District 1-1 (Norwood) before the city approved the TIF plan for this district.⁴³

The city responded that the relevant county officers and school board members were made fully aware of the fiscal and economic impact of the TIF district. The city further responded that any failure to comply with the letter of the TIF Act occurred prior to December 31, 1990, and therefore is not a violation for which a remedy is provided under Minn. Stat. § 469.1771, subd. 2.

In its final notice, the OSA reiterated its original position and indicated that whether a remedy exists is a determination appropriate for the county attorney and the courts.

2. Failure to Inform County Auditor of Building Permits Issued Before Approval of TIF Plans

The OSA initially found that the city failed to provide the county auditor with a listing of all properties within TIF District 1-1 (Norwood) and TIF District 1-1 (Young America) for which a building permit had been issued during the 18 months immediately preceding approval of the TIF plans for these TIF districts.⁴⁴

The city responded that (1) two building permits were issued within the three months immediately prior to the creation of the TIF districts, so the county auditor was not required to increase the original assessed value of the district by the value of the building permits, (2) one building permit issued outside the three month window should have been reported to the county auditor, and (3) the city's failure to notify the county occurred prior to December 31, 1990, and therefore is not a violation for which a remedy is provided under Minn. Stat. § 469.1771, subd. 2.

In its final notice, the OSA reiterated its original position and indicated that whether a remedy exists is a determination appropriate for the county attorney and the courts.

⁴² The findings in question relate to actions that occurred before the merger of Norwood and Young America and therefore parenthetically note which city was involved.

⁴³ Minn. Stat. § 469.175, subd. 2 (Supp. 1987).

⁴⁴ Minn. Stat. § 469.177, subd. 4 (Supp. 1987).

3. Failure to Meet the “But For” Test or Lack of Reasons and Supporting Facts

The OSA initially found that before or at the time that the city approved the TIF plan for TIF District 1-1 (Young America), the city did not meet the “but for” test, as required by the TIF Act.⁴⁵ The OSA’s finding was based on the fact that the city issued two building permits in 1997 for the only parcel in TIF District 1-1 (Young America), the TIF plan stated the new construction would be completed by January 2, 1988, and the city was aware of this situation before the city council approved the TIF plan for this TIF district on February 2, 1988. Therefore, the development was completed before the tax increment financing plan was approved, and the development occurred through private investment without TIF assistance.

The city’s response stated that council meeting minutes, along with the three month window provided by the Legislature in which building permits may be issued prior to approval of a TIF plan, led the developer to conclude it had reached an informal agreement with the city about tax increment financing prior to the adoption of the TIF plan. Therefore, it was not unreasonable for the city council to conclude on February 2, 1988, that the work done by the developer would not have occurred without the expectation of TIF assistance. The response also stated that the TIF Act provides that the findings of the governing body approving the TIF plan are conclusive of the public need for the finding,⁴⁶ and that if a violation did occur it occurred prior to December 31, 1990, and therefore is not a violation for which a remedy is provided under Minn. Stat § 469.1771, subd. 2.

In its final notice, the OSA reiterated its original position and indicated that whether a remedy exists is a determination appropriate for the county attorney and the courts

4. Expenditures in Excess of Total Estimated Tax Increment Expenditures

The OSA initially found that the city improperly spent \$856,208.36 of tax increment from TIF District 1-2 (Young America), because the city spent this amount of tax increment in excess of the total estimated tax increment expenditures authorized in the TIF plan.

The city’s response noted that the TIF plan for TIF District 1-2 (Young America) contained an estimate of the cost of the project, the TIF plan authorized the city to issue bonds in the amount of total project costs, and the TIF plan allowed the city to spend tax increment and special assessments to repay the bonds. Based on this information, total estimated tax increment expenditure authorized in the TIF plan was \$1,235,000, the same as the estimated project costs.

In its final notice, the OSA found that Section J of the TIF plan for TIF District 1-2 (Young America) stated that the city anticipated it would not use tax increment to pay all of the estimated project costs. It was clearly anticipated and disclosed to the public that tax increment and other revenue sources would be used to pay project costs. The TIF plan failed to notify the public that it was authorizing the city to capture and spend \$1,235,000 of tax increment. Instead, the best information available in the TIF plan indicated the city

⁴⁵ Minn. Stat. § 469.175, subd. 3(2) (Supp. 1987).

⁴⁶ Minn. Stat. § 469.175, subd. 3 (Supp. 1987).

anticipated that it would be able to spend only \$180,000 of tax increment from TIF District 1-2 (Young America) on the project.

5. Excess Tax Increment

The OSA initially found that the city received \$42,364.32 of excess tax increment from TIF District 1-1 (Norwood), and \$37,522.01 of excess tax increment from TIF District 1-1 (Young America). If, in any year, a TIF district has sufficient revenue available to pay the remaining costs authorized by the TIF plan, any tax increment the TIF authority receives from the TIF district after that point in time is excess tax increment. Excess tax increment may be used only to 1) prepay any outstanding bonds, 2) discharge the pledge of tax increment for such bonds, 3) pay into an escrow account dedicated to the payment of such bonds, or 4) return the excess amount to the county auditor for distribution to the municipality, county and school district.⁴⁷

The city responded that (1) the OSA included interest on tax increment earned prior to July 2, 1997, which should not have been included in the \$42,364.32 calculation, (2) the OSA overlooked a May 13, 1996, amendment to the TIF plan for TIF District 1-1 (Norwood), that authorized additional expenditures, and (3) the city received only \$7,131 of excess tax increment from TIF District 1-1 (Young America), and received \$7,881 of interest income from July 2, 1997, through December 31, 2000, for a total \$15,012 of excess tax increment. The city's response did not, however, explain how the city arrived at the \$7,881 interest income calculation, and merely stated that the city sent a check in the amount of \$15,012 to Carver County on August 15, 2002.

In its final notice, the OSA found that (1) it included interest earned on tax increment prior to July 2, 1997, in its analysis, because the TIF Act does not require non-tax increment to be excluded, (2) it agreed that the city had the right to amend the TIF plan to increase project costs after notice and a public hearing, but any such amendment is not retroactive in effect and the OSA did not overlook the May 13, 1996, TIF-plan amendment, and (3) the city's general ledger and comprehensive annual financial reports do not agree with the city's \$15,012 excess tax increment calculation.

E. CITY OF PLATO

On December 2, 2002, the OSA sent the city of Plato an initial notice of noncompliance. This matter has been resolved as described below.

1. Costs Not Eligible for Payment with Tax Increment

The OSA initially found that the city's transfers of \$42,088 of tax increment from TIF District 2 to the city's general fund were improper, because the transfers were made for reimbursement of the loss of Homestead and Agricultural Credit Aid (HACA) due to the creation of TIF District 2.

⁴⁷ Minn. Stat. § 469.176, subd. 2 (Supp. 1987).

The city responded that it had transferred \$42,088 of tax increment from TIF District 2 into the city's general fund, and that the city had not yet spent these funds. The city council authorized payment of \$42,088 to the McLeod County auditor, and the payment resolved this finding.

F. CITY OF VADNAIS HEIGHTS

On April 12, 2002, the OSA sent the city of Vadnais Heights an initial notice of noncompliance. The city's response did not fully resolve all issues described in that notice and the matter was referred to the Ramsey County attorney on July 9, 2002.

1. Tax Increment Received After the Maximum Duration Limit

The OSA initially found that the city improperly received \$234,154.49 of tax increment from five of the city's TIF districts; \$113,044.56 from TIF District 1-2, \$36,537.69 from TIF District 1-4, \$45,066.95 from TIF District 1-11, \$3,635.69 from TIF District 1-19, and \$35,869.60 from TIF district 1-20. The OSA's finding was based on its conclusion that the city received the tax increment after the statutory maximum duration limit specified in the TIF Act. All five of the TIF districts in question were economic development districts with a certification request date before May 31, 1993 and as a result, the city was not entitled to receive tax increment from them after eight years from the date of receipt of the first tax increment from the district, or ten years from approval of the TIF plan, whichever is less.⁴⁸

The city acknowledged that it had received tax increment from these districts as claimed by the OSA. The city contended, however, that the duration limits should be calculated on the basis of the date on which increment was first received because this date was earlier than the date ten years after TIF district approval. As a result, the city was entitled to receive increments from taxes payable in the year of the districts' termination.

In its final notice of noncompliance, the OSA reasoned that the statutory right to collect increment from a district whose duration is measured on the basis of the date on which increment is first received does not supercede the independent statutory prohibition against receiving tax increment more than 10 years after approval of a TIF district. Therefore, the OSA reiterated its original findings.

G. WHITE BEAR LAKE HRA

On August 2, 2002, the OSA sent the city of White Bear Lake an initial notice of noncompliance. Although the city agreed to restructure the relevant accounting procedures in the future, the city's response did not fully resolve all issues described in that notice and the matter was referred to the Ramsey County attorney on December 5, 2002.

⁴⁸ Minn. Stat. § 273.75, subd. 1 (Supp. 1985); *see also* Laws 1993, ch. 375, art. 14, sec. 10 and 24.

1. Costs Not Eligible for Payment with Soils Condition or Housing District Tax Increment

The OSA initially found that the White Bear Lake Housing and Redevelopment Authority (HRA) improperly spent \$186,751 of tax increment from TIF District 7 (Anderson Office Building), a soils condition district, to finance costs that were not eligible for payment.⁴⁹ Specifically, the HRA spent 1993 TIF bond proceeds to acquire land for and construct Pioneer Manor, and to acquire land for Veterans Memorial Park and transferred money from TIF District 7 to pay debt service on these bonds even though the costs in question were not eligible for payment from TIF District 7. The OSA also initially found the HRA spent \$186,751 of Series 1995A and Series 1995B TIF bond proceeds on the reconstruction of Trunk Highway 96, site improvements and a fishing pier in a public park, renovation of an armory, activities in the city's Downtown Expansion area, activities in the city's Downtown West Revitalization area, costs associated with relocating K-D Partnership, and transferred money from TIF District 7 to pay debt service on these bonds even though the costs in question were not eligible for payment from TIF District 7.⁵⁰

The city's response contended that although the funds in question had been deposited in a tax increment financing pool, they had not been spent and would be transferred back to TIF District 7 account to permit easier tracking.

In its final notice, the OSA reiterated that the HRA's accounting system did not segregate TIF funds in a way that would allow confirmation of the city's assertion that the funds had not been spent. The OSA therefore affirmed its original findings.

Similarly, the OSA initially found that the HRA improperly spent \$467,110 of tax increment from TIF District 3 (Michael Development) and TIF District 4 (Homecraft Development), which are housing districts, to finance costs that were not eligible for payment.⁵¹ Specifically, the HRA spent 1993 TIF bond proceeds to acquire land for and construct Pioneer Manor, and to acquire land for Veterans Memorial Park and transferred money from TIF Districts 3 and 4 to pay debt service on these bonds even though the costs in question were not eligible for payment from TIF Districts 3 and 4. The OSA also initially found the HRA spent \$467,110 of Series 1995A and Series 1995B TIF bond proceeds on the reconstruction of Trunk Highway 96, site improvements and a fishing pier in a public park, renovation of an armory, activities in the city's Downtown Expansion area, activities in the city's Downtown West Revitalization area, costs associated with relocating

⁴⁹ Minn. Stat. § 469.176, subd. 4b (1988) limits the ways in which these funds may be spent.

⁵⁰ Because the HRA's accounting system did not adequately track these funds, the OSA was unable to determine which TIF district was the source of the impermissible \$186,751 expenditure. Thus, the impermissible expenditure was attributed to multiple districts for purposes of the OSA's findings.

⁵¹ Minn. Stat. § 469.176, subd. 4d (1988) limits the ways in which these funds may be spent.

K-D Partnership, and transferred money from TIF Districts 3 and 4 to pay debt service on these bonds even though the costs in question were not eligible for payment from TIF Districts 3 and 4.⁵²

The city's response contended that the funds in question had been deposited in a tax increment financing pool and had then been spent on eligible housing district costs.

In its final notice, the OSA reiterated that the HRA's accounting system did not segregate TIF funds in a way that would allow confirmation of the city's assertion that the funds had been spent on eligible costs. The OSA therefore affirmed its original findings.

The OSA also initially found that the HRA transferred \$3,162 of tax increment from TIF District 4 (Homecraft Development) into a tax increment pool and used these funds for ineligible purposes.

The city's response indicated that the \$3,162 of expenditures should have been charged against non-tax increment cash that was transferred from the city's general fund into the tax increment financing pool.

In its final notice, the OSA reiterated that the HRA's accounting system did not segregate TIF funds in a way that would allow confirmation of the city's assertion that the expenditures had actually been made with general funds.

2. Costs Not Authorized in TIF Plan

The OSA initially found that the HRA improperly spent \$345,050.88 of 1993 TIF Bond proceeds to acquire land for Pioneer Manor, \$150,921.40 of 1993 TIF Bond proceeds to acquire land for Veterans Memorial Park, and \$913,731 of Series 1995A and Series 1995B TIF Bond proceeds to acquire land within the Downtown Expansion and Downtown West Revitalization areas and to relocate K-D Partnership. The OSA contended that these expenditures were impermissible because these properties were not designated as properties the HRA intended to acquire in the TIF plans for TIF districts that pledged their increment toward the payment of the bonds.⁵³ The OSA also found that the HRA improperly spent \$35,000 of tax increment from TIF Districts 4 (Homecraft Development) and 8 (Container Graphics) to acquire land for a tree preserve, because the parcel was not designated in the TIF plans for TIF Districts 4 and 8 as property the HRA intended to acquire. The tree preserve is also located outside of the geographic area of the project that contains the TIF districts.

⁵² Because the HRA's accounting system did not adequately track these funds, the OSA was unable to determine which TIF district was the source of the impermissible \$467,110 expenditure. Thus, the impermissible expenditure was attributed to multiple districts for purposes of the OSA's findings.

⁵³ See Minn. Stat. § 273.74, subd. 1(b) (1984 through 1986), and Minn. Stat. § 273.74, subd. 4 (1984 through 1986). As an alternative finding to its contention that bond proceeds were improperly spent, the OSA found that the HRA used tax increment from various TIF districts to pay debt service on the bonds in question.

The city responded that various TIF plans contain text that designate the parcels as properties the HRA intended to acquire, and Exhibit I-D of the project plan identified these parcels as property the HRA intended to acquire. The city also responded that non-tax increment was used to purchase the tree preserve.

In its final notice, the OSA reiterated the findings contained in the initial notice of noncompliance and concluded that the city's accounting records did not adequately support its contention that non-tax increment was used to acquire the tree preserve.

3. Expenditure in Excess of Total Estimated Tax Increment Expenditures

The OSA initially found that the HRA improperly spent \$51,202.24 of tax increment from TIF District 8 (Container Graphics), because the HRA spent this tax increment in excess of the total estimated tax increment expenditures authorized in the TIF plan for TIF District 8.

The city responded that the TIF plan for each of the 17 TIF districts in the project authorized the HRA to use the tax increment from each TIF district to pay all of the project costs listed in the TIF plans. Accordingly, each time the HRA amended the TIF plans to increase the estimated costs of the project, it increased each TIF district's total estimated tax increment expenditures.

In its final notice, the OSA found that each TIF district must have its own TIF plan, and each TIF plan for each TIF district must contain that TIF district's own total estimated tax increment expenditures. Furthermore, an increase in total estimated costs of the project is not synonymous with an increase in the total estimated tax increment expenditures of each TIF district. It is an increase in the total estimated tax increment expenditures that triggers the requirement for notice and a public hearing for approval of a TIF plan modification, and not an increase in the estimated cost of the project.

III. INITIATIVES

As part of its effort to promote more effective use and management of tax increment financing and other development and redevelopment tools within the state, the OSA is establishing a set of initiatives for the TIF Division. The primary ones are described below.

A. ADVISORY GROUP

Perhaps most significant is the establishment of an advisory group. Intended to provide a mechanism for greater public input into the activities of the State Auditor's Office, the group will be comprised of representatives of the key TIF constituencies, including the Legislature, cities, counties, TIF attorneys and advisors, developers, and members of the general public. In addition, certain specific issues will be dealt with by permanent or ad hoc committees. This will provide appropriate resources to deal with relatively technical questions that require special expertise or are of particular interest to identifiable groups.

B. AUDITS

In addition to promoting better record keeping and legal compliance on the part of TIF authorities, the TIF Division's auditing function regularly identifies the issues that the Office now intends to address. It is anticipated that auditing will continue to serve this dual role. At the same time, there has in the past been an appreciable amount of conflict between the OSA and the authorities it has audited over auditing standards and accounting methods. A task force subcommittee will be asked to address this problem by examining how to better apply generally accepted standards to the TIF Division's auditing practice.

C. REPORTING

The OSA presently collects a substantial amount of information regarding TIF districts. The Office also collects a wide variety of other information related to local governments, however, and it has not historically integrated these different types of information in the reports it prepares. The OSA will work with users of this information, most notably the Legislature, local governments, and the public, to determine whether the substance and format of the information currently being provided meets the needs of these users. The OSA will also continue to improve its data collection processes to permit TIF Authorities to provide required information in simpler, more efficient ways.

D. TRAINING AND COMMUNICATION

The OSA will continue to provide training and other information on a wide variety of reporting and other issues related to TIF. The Office will also explore the expanded use of industry periodicals, conferences, and other external communication channels as a way of disseminating information in a cost-effective, far-reaching fashion. Finally, the OSA will take steps to provide formal and informal guidance on TIF issues and statutory interpretation so that TIF authorities will have a basis on which they can make decisions regarding the use and management of tax increment financing.

IV. CONCLUSION

The TIF Division may be contacted at the following addresses and telephone/fax numbers:

Office of the State Auditor
Tax Increment Financing, Investment & Finance Division
525 Park Street, Suite 400
St. Paul, MN 55103
Telephone: (651) 296-4716
Fax: (651) 282-5298
email: tifdivision@osa.state.mn.us

Daniel J. Greensweig, Assistant State Auditor/Director(651) 296-7979
Marsha Pattison, Office and Administrative Specialist(651) 296-4716

EXHIBIT 1

TIF Reporting for Year Ended December 31, 2001

The TIF Act requires TIF authorities to file annual reports with the OSA about their TIF districts. This reporting requirement applies to all TIF districts regardless of when they were created. TIF authorities must submit the required information to the OSA on or before August 1 of each year.⁵⁴ In addition to filing TIF reports, a TIF authority must publish certain statutorily required financial information about each of its TIF districts in a newspaper of general circulation on or before August 15 of each year.⁵⁵

A total of 440 TIF authorities had TIF districts for which they were required to file TIF reports with the OSA for the year ended December 31, 2001, which were due by August 1, 2002. These TIF authorities were required to file reports for 2,166 TIF districts.

NEW: On-Line TIF Reporting

For the TIF reports for the year ended December 31, 2001, the OSA made available to TIF authorities a system for submitting TIF reports on the OSA's web site. TIF authorities used the on-line TIF reporting system to submit 382, or 18%, of the 2,166 TIF District Reports that were required to be submitted to the OSA for the year ended December 31, 2001.⁵⁶ The following 56 TIF authorities used the on-line TIF reporting system to submit some or all of their required 2001 TIF reports:

Albany, City of	Edgerton, City of	Luverne EDA
Alexandria, City of	Elk River, City of	Maple Grove, City of
Bayport, City of	Foley, City of	Maplewood, City of
Blue Earth County HRA	Freeborn County HRA	Minneapolis Community Development Agency
Buffalo HRA	Granite Falls, City of	Mound, City of
Cook County/Grand Marais Joint EDA	Holdingsford, City of	Murdock, City of
Crookston, City of	Hopkins, City of	New Ulm, City of
Crosby, City of	Houston, City of	Newport, City of
Crosby HRA	Kenyon, City of	Northfield EDA
Crystal, City of	Kiester, City of	Northwest MN Multi- County HRA
Deer River, City of	Lakeville, City of	Pequot Lakes, City of
Eden Prairie, City of	Lauderdale, City of	
	Long Prairie, City of	

⁵⁴ See Minn. Stat. § 469.175, subd. 6 (2002).

⁵⁵ See Minn. Stat. § 469.175, subd. 5 (2002).

⁵⁶ It is likely that more 2001 TIF reports would have been submitted using the on-line TIF reporting system if the OSA had not closed the system on July 19, 2002, to ensure the system could process all of the on-line TIF reports by the August 1 deadline.

Perham, City of	Rockford, City of	Stewartville, City of
Pine City, City of	Rose Creek, City of	Swift County HRA
Plymouth, City of	Savage, City of	Swift County RDFA
Ramsey, City of	Shakopee, City of	Victoria, City of
Red Lake Falls, City of	Southwest MN Multi-County	Wabasso, City of
Redwood Falls, City of	HRA	Walker, City of
Rochester, City of	Stearns County HRA	White Bear Lake HRA

Many of the TIF authorities completed and submitted evaluations of the on-line TIF reporting system. For the most part, reaction to the system was extremely positive, and the OSA has learned much from the thoughtful, constructive criticism provided by representatives of the TIF authorities who used the system. The on-line TIF reporting system will be available again for the 2002 reporting cycle.

Statistics on TIF Reporting Compliance

The OSA returns TIF reports that are not substantially complete and treats them as not filed. The following table divides the TIF authorities required to submit TIF reports each year into those that, by the August 1⁵⁷ statutory deadline, submitted (1) substantially complete reports for all reports the TIF authority was required to submit or, (2) submitted some reports, but either (a) not all of the required reports were filed, (b) not all of the required reports were substantially complete, or c) the copy of the annual disclosure statement was not filed by the deadline, or (3) no reports at all.

TABLE 4—TIF Authority Reporting by Reporting Year

Reports for Year Ended Dec. 31	All Reports Substantially Complete	Some Reports Submitted	No Reports Submitted	Total
1997	176 (42%)	144 (35%)	96 (23%)	416 (100%)
1998	305 (70%)	65 (15%)	63 (15%)	433 (100%)
1999	304 (70%)	40 (9%)	92 (21%)	436 (100%)
2000	269 (61%)	82 (19%)	91 (21%)	442 (100%)
2001	290 (66%)	25 (6%)	125 (28%)	440 (100%)

In 1998, the Legislature enacted Minn. Stat. § 469.1771, subd. 2a, which establishes a procedure for tax increment to be withheld by the county auditor if the TIF authority or municipality fails to file reports containing

⁵⁷ For the TIF reports for the year ended December 31, 1997, the statutory deadline for submitting TIF reports was July 1, 1998.

the required TIF information or a copy of the annual disclosure statement by the statutory deadline. The withheld tax increment is released and distributed whenever substantially complete TIF reports eventually are filed. These changes were effective starting with the TIF reports and annual disclosure statement that were required to be filed in 1999.⁵⁸

On August 20, 2002, the OSA mailed notices to 162 TIF authorities informing them that the OSA had not received substantially complete 2001 TIF reports for one or more of their TIF districts as of August 1, 2002, and that tax increment from those districts would be withheld pursuant to Minn. Stat. § 469.1771, subd. 2a.

As of November 19, 2002, the OSA had not received substantially complete 2001 TIF reports for certain TIF districts, non-district funds, or pooled debt issues from the following 37 TIF authorities:

Afton, City of	Goodhue, City of	North Branch, City of
Baxter, City of	Hill City, City of	Northfield EDA
Browns Valley, City of	Howard Lake, City of	Ottertail, City of
Butterfield, City of	Lake Benton, City of	Rush City, City of
Canby, City of	Lake County HRA	Shorewood, City of
Chaska EDA	Lanesboro, City of	Spring Lake Park, City of
Coleraine, City of	Lewiston, City of	Virginia, City of
Cologne, City of	Mantorville, City of	Waldorf, City of
Dexter, City of	Maple Lake, City of	Watertown, City of
Dodge Center, City of	Mapleview, City of	Willmar, City of
Fisher, City of	Marshall, City of	Yellow Medicine Cty EDA
Frazee, City of	Mounds View EDA	
Glencoe, City of	Nisswa, City of	

Consequently, on November 20, 2002, the OSA mailed notices to county auditors to withhold tax increment that otherwise would have been distributed to these 37 TIF authorities from the identified TIF districts.

As of April 28, 2003, the following 15 TIF authorities had not filed substantially complete 2001 TIF reports for certain TIF districts:

Baxter, City of (No reports have been filed for 2000 or 2001)
Browns Valley, City of (No reports have been filed for 1999, 2000, or 2001)
Cologne, City of (No reports have been filed for 1998, 1999, or 2001)
Frazee, City of (No reports have been filed for 2001)
Goodhue, City of (Not all reports have been filed for 2001)
Hill City, City of (No reports have been filed for 2001)
Lake Benton, City of (No reports have been filed for 2001)
Lanesboro, City of (No reports have been filed for 2001)
Lewiston, City of (One District Report has not been filed for 2001)

⁵⁸ Laws 1998, ch. 389, art. 11, sec. 29.

Mapleview, City of (Annual Disclosure Statement is not substantially complete for 2001)
Ottertail, City of (No reports have been filed for 2001)
Rush City, City of (Two District Reports are not substantially complete for 2001)
Shorewood, City of (No reports have been filed for 2000 or 2001)
Virginia, City of (No reports have been filed for 2000 or 2001)
Yellow Medicine County EDA (No reports have been filed for 2000 or 2001)